

TOWN OF EASTHAM

BY-LAWS & REGULATIONS

GOVERNMENT

OF THE TOWN OF EASTHAM

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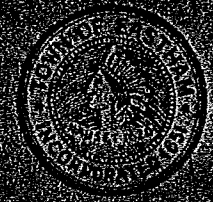
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Eastham

Massachusetts

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**TOWN of EASTHAM**  
**BY-LAWS, RULES & REGULATIONS**  
Governing  
Construction, Zoning,  
Subdivision, Sewage Disposal  
and the  
Submission of Cases  
to the  
Appeal Board  
and  
Town Beaches



1963

Eastham

Massachusetts

By-Law regulating the construction, reconstruction and location of buildings within the Town of Eastham.

As accepted at the Annual Town Meeting February 16, 1948 and amended to date.

## SECTION I

### Article 1. DEFINITION

In this by-law the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

#### A. Building Lines:

The interior walls of a building at or above the ground, including bay windows, porches, piazzas, and similar projections. Uncovered steps and projecting eaves shall not be construed as being within this definition.

#### B. Lot Lines:

The lines defining or limiting leaseholds or ownership of land.

#### C. Reconstructed or Reconstruction:

The removal of any building to a new foundation, or the renewal of any structure damaged by fire or other casualty as follows:

- (1) Wood frame buildings, damaged to the frame.
- (2) Masonry buildings, damage to the walls or roof.
- (3) In all cases, damage to the foundation or interior supports.

The Building Inspector shall be the authority to determine whether any building has suffered damage in the manner described.

#### D. Altered or Alteration:

(1) The rebuilding or change in a structure to provide for a complete or partial change in the use to which it may be put.

(2) The rebuilding or change of any nature in structures of every kind, which exceeds 20 percent of the assessed value and which is not in the nature of ordinary repair and maintenance.

#### E. Additions:

The addition to a structure by which its floor area is increased.

#### F. First-Class Construction:

Walls of fireproof construction, and floors (except finished floors) roofs, and partitions entirely of incombustible materials with no exposed structural steel.

#### G. Second-Class Construction:

Exterior walls of incombustible material, not less than eight inches thick, and roof covered of incombustible material.

#### H. Third-Class Construction:

All other kinds of construction not First or Second Class.

### Article 2. APPOINTMENT of BUILDING INSPECTOR

The Board of Selectmen annually in March shall appoint an Inspector of Buildings to hold office for the term of one year from the first of April following and until his successor is appointed and qualified.

The person appointed and qualified to act as Inspector of Buildings shall receive such salary or compensation as shall be fixed by the Board of Selectmen, within the appropriation for the Inspector of Buildings, and no other fee or compensation shall be allowed or paid to him. He shall be under the supervision of the Board of Selectmen, and shall be subject to such rules and regulations as that Board may prescribe. He shall submit annual reports of the work of his office for publication in the Town Report.

The Inspector of Buildings shall make inspection of all building operations within this Town, and he may, for this purpose, enter upon the premises where such operations are carried on at all reasonable times and shall report to the Board of Selectmen all violations of this by-law or of the conditions of any permit issued.

### Article 3. PERMIT REQUIRED

Except as otherwise expressly provided herein, or by statute, or the Town By-Laws, no building or structure shall be erected, altered, reconstructed, or added to without a permit from the Building Inspector first having been obtained for such erection, alteration, reconstruction or addition. For the erection of buildings for mercantile, business or industrial purposes or for dwelling purposes to accommodate more than two family units, plans and specifications, together with such structural details as may be required, shall be submitted to the Inspector of Buildings for his approval, and as a condition for the issuance of a permit. The Building Inspector shall withhold a permit if the proposed work is in violation of law or of this or any other by-law of the Town; otherwise he shall grant the permit.

### Article 4. NO PERMIT REQUIRED

No permit shall be required for the construction of a building or other structure which is less than 150 sq. ft. in area and less than eight ft in height at the eaves if it is not intended to be used for dwelling purposes and is proposed to be located more than 100 ft. from a public way. No permit shall be required for repairs occasioned by ordinary wear and deterioration.

The provision of this by-law shall not apply to buildings or structures erected or owned by the United States or the Commonwealth of Massachusetts, or to bridges, quays and Wharves.

### Article 5. APPLICATION for PERMIT

Application for permit to erect, construct, reconstruct, alter or add to a structure shall be on forms provided. Applications shall be required to give such information regarding the proposed work as the Board of Selectmen may prescribe.

### Article 6. FEE

The fee to be paid with each application for a permit shall be computed at the rate of fifty cents for each five hundred dollars of cost of the work for which application is made, but the minimum fee shall be one dollar.

### Article 7. NOTICE of PERMIT

Public notice of a permit granted shall be made by posting in a conspicuous place on the premises of a suitable placard, giving the name of the owner, the signature of the Board of Selectmen, and such other information as the Board of Selectmen may deem proper.

### Article 8. APPROVAL by DEPARTMENT of PUBLIC SAFETY

The Inspector of Buildings shall grant no permit for the erection, reconstruction, or alteration of a building or structure designed or proposed to be used in whole or in part as a public building as defined in Chapter 143, Section 1 of the General Laws, or as a factory, workshop, mercantile or other establishment, and to have accommodations or use for ten or more employees, or for a structure more than two stories high designed to be used above the second story as an office building, dormitory, hotel, family hotel apartment house, boarding house, lodging house, or tenement house, and having eight or more rooms above said second story, until the owner or his agent has been granted a certificate of approval by the Supervisor of Plans of the Department of Public Safety in accordance with the requirements of Chapter 143, of the General Laws.

The granting of such certificate of approval shall not relieve the owner of the proposed structure from all other applicable parts of this by-law.

#### Article 9. APPEAL

Any person aggrieved by the refusal of the Inspector of Buildings to grant a permit may, within seven days after such refusal, appeal to the Board of Selectmen, who, after a hearing, with seven days notice of the same having been given by advertising in a newspaper of local circulation, may affirm, modify or reverse the decision of the Inspector and may issue the permit or direct it to be issued by the Inspector in accordance with their decision.

#### Article 10. LINES and GRADES of PUBLIC WAY

No person shall erect any foundation, building or wall or make any alterations in the external way of any structure, any part of which is to be placed within 10 feet of a public way or place dedicated to the public use before making application to the Board of Selectmen for the location of the lines and grades of such public way or place dedicated to public use.

#### Article 11. BUILDING LINES

The building lines of structures for human habitation shall not be nearer to the nearest boundary of any way than 30 feet, nor nearer to the interior side and rear lot lines than 25 feet; and if on land of single ownership, they shall not be nearer to each other than 50 feet. The building lines of structures which are necessary to wood framed structures for human habitation shall not be nearer to side and rear lot lines than 12 feet, nor nearer to the nearest boundary of any way than 30 feet.

The building lines of all other types of building or structures of third class construction, shall not be nearer to side and rear lot lines than 12 feet.

If the Board of Selectmen find that adjacent buildings for a reasonable distance on either side of the property on which the applicant proposes to build conform to some substantially common front line, the Selectmen may require the applicant also to conform thereto, regardless of the class of construction and use of the proposed structure.

#### Article 12. CHIMNEYS

All chimneys shall consist of masonry construction from the ground. Brick and precast cement block chimneys shall have Fire Clay flue linings continuous from bottom to top in all flues and any type of manufactured precast chimney approved by the National Board of Fire Underwriters and not in conflict with the State Fire Marshal's Office shall likewise be permissible, except that structures solely for commercial or industrial purposes may have approved steel stacks or masonry chimneys with fire brick lining.

No smoke pipe or metal flue shall pass through any wooden partitions without a safety thimble to extend the full width of partition, the smoke pipe or flue to be at least four inches from woodwork.

#### Article 13. FIRE PREVENTION

Buildings of second or third class construction erected as blocks and subdivided for store or similar purposes; partitions or walls in the first story separating one store or similar portion from another shall be constructed either of fireproof material or of wood studs nogged the full height and thickness of the partition with fireproof material and dividing walls in the basement shall be entirely of fireproof material. All openings in such walls or partitions in both the basement and first story shall be glazed with wire glass in metal frames or have self-closing fireproof doors in metal frames.

#### Article 14. SPECIAL HAZARDS

Buildings or structures of any kind, which by reason of material intended to be stored therein or processes to be carried on, present in the opinion of the Building Inspector possibilities of special hazards of fire or explosion or of noxious fumes, shall be subject to whatever degree of isolation, setback, adjacent protective provisions, material and manner of construction that the Selectmen by and with the advice of the Chief of the Fire Department may require.

#### Article 15. MINIMUM REQUIREMENTS for DWELLINGS

All structures erected for dwelling purposes or intended to be so used shall conform to and include the following minimum requirements:

##### A. Foundations:

Foundations shall be of continuous masonry construction extending at least 18 inches below the finished grade with interior supports to the ground of masonry, concrete or concrete filled steel columns.

##### B. Floors:

Floors shall be constructed to support a live load of not less than 40 lbs. per sq. ft.

##### C. Roof:

Roofs shall be constructed to carry a live load of not less than 30 lbs. per sq. ft.

##### D. Framing:

All other framing in size and area shall be adequate to receive, transmit or support the dead load and prescribed live load. All sills shall be securely anchored to foundation.

##### E. Bathroom:

Except as provided for overnight cabins, as hereinafter defined, there shall be a bathroom having therein a water closet and lavatory, and all toilet rooms and bathrooms shall have outside windows or other approved means of ventilation.

TABLE I

Maximum clear spans for wood girders:

size in inches	one story dwellings	one and a half story dwellings
4 x 6	5 0	4 0
6 x 6	6 0	5 2
4 x 8	6 4	5 6
4 x 10	8 0	7 0
6 x 8	8 0	7 0
6 x 10	9 0	8 0

TABLE II

Maximum clear spans for floor joists assumed live load of 40 lbs. per sq. ft.; dead load 10 lbs. Spacing of joists is 16" center to center.

size inches	No. 1 framing		No. 3 framing	
	ft.	in.	ft.	in.
2 x 4				
2 x 6	9	1	8	6
2 x 8	12	1	11	4
2 x 10	15	3	14	4
3 x 10	17	8	16	9
2 x 12	18	5	17	3

TABLE III

Maximum clear spans for ceiling joists, live load none; dead load 10 lbs. per sq. ft. Spacing of joists is 16" center to center.

size in inches	ft.	in.
2 x 4	10	0
2 x 6	15	4
2 x 8	20	2

Note - - Where the attic space above the ceiling joists is unfinished but is usable for storage space, or if the space is suitable for finishing into future habitable rooms, the span for the ceiling joists shall be figured the same as for the floor joists.

**TABLE IV**

Maximum clear spans of rafters for wood or asphalt shingle roofs.

Par. 1. Clear span shall mean the distance measured horizontally from the inside of the plate to a point directly beneath the ridge; the actual rafter length will depend on the roof slope and must be determined accordingly.

Par. 2. This table is for roofs with a minimum pitch of 5" to 12"; for roofs with less pitch, the rafters shall be figured as floor joists. Spacing center to center 24".

size in inches		ft.	in.
2 x 4		6	6
2 x 6		10	3
2 x 8		13	8
20"		16"	
ft.	in.	ft.	in.
7	3	8	1
11	4	12	6
15	2	16	7

TABLES I, II, III and IV are based on a minimum fiber stress of 1200 lbs.

Nothing in the foregoing table shall be construed as to prevent other methods or types of dwelling construction, provided, however, that such other methods or types of dwelling construction shall be submitted for the approval of the Building Inspector in such form as he may require and approved by him.

G. The walls and ceilings of all basement garages shall be on fire resistant material and attached garages must be separated by fire resistant walls and (or) ceilings. The words "fire resistant" shall imply wall and (or) ceiling construction having a minimum resistance to fire of one hour, as determined by the National Board of Fire Underwriters or other recognized authority.

#### Article 16. SEWAGE

A. No cesspool or other means of sewage disposal shall be located under a building or nearer than 50 ft. to any well or other source of water supply except a public water system.

B. No burnt clay tile pipe of any description shall be used within or under a building to conduct sewage or waste from plumbing fixtures.

#### Article 17. DWELLINGS LESS THAN 500 SQUARE FEET

Two or more structures erected for dwelling purposes each having less than 500 sq. ft. of area at the first floor level exclusive of porches and similar open spaces and being on land of single ownership, shall be subject to all the provisions of that section of this by-law governing Tourist Camps not withstanding that it may not be the intention of the owner or lessee to offer said structures for transient occupancy by the day or week.

### SECTION II TOURIST CAMPS

#### Article 1. DEFINITIONS

In this by-law the terms "overnight cabin" and "tourist camp" shall have the following meanings:

**A. Overnight Cabins:**

Any structure, whether described under the name or otherwise constructed for dwelling purposes and offered to the transient public for occupancy by the day or week.

**B. Tourist Camp:**

A group composed of two or more overnight cabins, guest cottages or structures going by any similar name erected on land of single ownership.

**Article 7. LOCATION of BUILDINGS**

Overnight cabins and accessory buildings shall not be erected or placed closer than 25 ft. of each other.

**Article 8. MINIMUM ACCOMMODATIONS**

No overnight cabin shall be erected having a floor area, exclusive of open porches, of less than 150 sq. ft.

**SECTION III**

**Article 1. INVALIDITY**

The invalidity of any section or provision of this by-law shall not invalidate any section or provision thereof.

**Article 2. BY-LAW EFFECTIVE**

This by-law shall take effect upon its approval by the Attorney General and publication according to law.

**Article 3. PENALTY**

Whoever violates any of the provisions of this ordinance shall be punished by a fine not exceeding One Hundred Dollars for each offense.

**ZONING BY-LAWS**

as adopted at the  
Annual Town Meeting  
February 18, 1952  
and amended to date

**DEFINITION:** For the purpose of this By-Law certain words and phrases are defined as follows:

(a) A cottage is a unit containing more than 500 sq. ft. of floor area, exclusive of porches, designed for renting by the month or season. Such units must contain at least two bedrooms, a living room, kitchen, a bath or toilet room, or any reasonable similar combination of rooms.

(b) A cabin is a unit containing not less than 150 sq. ft. of floor area, exclusive of porches, designed for renting by the day or week.

(c) Temporary signs. All signs such as "For Sale", "For Rent" and contractor's and builder's signs, used during the process of construction and remodeling, shall be classified as temporary signs.

(d) Signs shall mean all advertising devices or insignia whether lettered or not, designed to promote a business, the sale of a product or of a service.

(e) The area of a sign shall be determined by the multiplication of the width and height including borders or moulding without deductions for open spaces or other irregularities.

**SECTION I**

The purpose of this By-Law is to promote the health, safety and general welfare of the inhabitants of the Town of Eastham, by dividing the Town into districts with a view towards conserving the best qualities of the Town as they now exist.



## SECTION II

**DISTRICTS:** In accordance with Chapter 40, General Laws, Section 25-30B, and any amendments thereto:

The Town of Eastham is hereby divided into four types of districts as follows:

- (a) Residential and Agricultural, District A.
- (b) Residential and General Farming, District B.
- (c) Commercial, Districts C and D.
- (d) Permissive Use.
- (e) Seashore District

Description of "Permissive Use" area:

"To a depth of 500 feet on the Westerly side of Route 6 from the highway taking from the Northerly boundary of the Evergreen Cemetery so-called, to the Eastham-Wellfleet Town line and on the Easterly side of Route 6 from the intersection of said Route 6 and the Old Colony Railroad right of way to the Westerly side of the Old Colony Railroad right of way from said intersection to the Eastham-Wellfleet Town line."

## SECTION III

In District A, premises and (or) buildings may be used for the following purposes only:

1. One family dwellings, not to exceed two stories in height, adapted to human habitation. (This use does not include tents, trailers, quonset huts or portable buildings, except upon a temporary permit issued specifically therefor by the Board of Selectmen.)
2. Renting of Cottages.
3. Accessory Buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles, stock and equipment, and only so long as not injurious, noxious or offensive to the neighborhood.
4. Churches, schools, municipal buildings, and all properties, building and structures of the municipal state, and federal governments.

5. Private Clubs: except a club, the chief activity of which is a service customarily carried on as a business.

6. Municipal recreation use.

7. Customary home occupations such as: dress-making, letting of rooms, taking of boarders, hand laundries, or the practice of a lawful profession, all such undertakings to be conducted by a resident occupant.

8. Any incidental activity related to his trade conducted by a craftsman or mechanic provided such activity does not involve substantially continuous operations or employment and is not injurious, noxious or offensive to the neighborhood.

9. Agricultural farming, gardening, nursery or greenhouse business and sale of produce or fish grown or processed by the resident occupants only and only so long as it is not injurious, noxious or offensive to the neighborhood.

10. The display of not more than two double faced signs on resident occupants property which shall pertain to the occupation of said occupant or to the use of such property as herein above authorized which shall have a total area of not more than 12 sq. ft. and provided that said sign or signs are not of the type or style employing or using flashing neon or fluorescent lighting or any lighting similar thereto.

(a) Temporary signs shall be permitted at the discretion of the owner and he may remove such signs at pleasure without notice.

11. Food and non-alcoholic beverages, refreshment booths or stores, if adjacent to any town landing, upon permit by the Board of Selectmen.

12. The keeping of livestock and poultry is restricted to non-commercial family use of the resident occupant only and only so long as it is not injurious, noxious or offensive to the neighborhood.

13. Funeral Homes.

14. Hospitals, Sanitariums and Rest Homes.

15. Boys' and Girls' Camps.

## SECTION IV

In District B premises and (or) buildings may be used for the following purposes only:

1. Any use designated or authorized in and for District A.
2. General farming and poultry raising with the exception of piggeries and the raising of mink and (or) fox and only so long as it is not injurious, noxious or offensive to the neighborhood.
3. Laboratory for research on moles, fish, birds and wildlife, and other similar scientific research, and all necessary activities relating thereto, so long as not injurious, noxious or offensive to the neighborhood.
4. Docks, wharves, fish and shellfish business, party boat business, renting of row boats, motor boats, sail boats, and fishing gear, and sale of fish bait, also boat storage, boat repairs, boat building, marine railway, and activities reasonably necessary and related thereto.
5. Cabin Rentals.
6. Public amusement area upon permit by the Board of Appeals upon an appeal to such Board, but only so conducted and managed in a manner not injurious, noxious or offensive to the neighborhood.
7. Cottage rental units on a single parcel of land, provided that the land allocable to the first building, whether dwelling or rental, shall contain an area of not less than 20,000 sq. ft. The land allocable to subsequent rental units shall contain an area of not less than 10,000 sq. ft. per unit. Cottage rental units hereunder shall remain as a single unit and may be sold only as such. Scaled site plans of cottage rental units shall be filed with the Building Inspector prior to issue of a building permit showing service drives and allocating 100 ft. frontage to the land for each rental unit, except that no cottage rental unit shall be erected upon any existing lot as shown on any subdivision or recorded plan that has been combined with any other such lot for the purpose of creating one lot for subdivision into cottage rental units under the provisions of this section.

8. The display of not more than two double faced signs on resident occupants' property which shall pertain to the occupation of said occupant or to use of such property as herein above authorized which shall have a total area of not more than 12 square feet and provided that said sign or signs are not of the type or style employing or using flashing neon or fluorescent lighting or any lighting similar thereto.

## SECTION V

Districts C and D: In Districts C and D premises and (or) buildings may be used for the following purposes only.

1. Any use designated or authorized in and for Districts A and B.
2. Stores, restaurants, filling stations, garages, repair shops, paint shops, antique businesses, furniture shops, manufacturing of house framing, cabinets, furniture, and like products.
3. Buildings, structures, and premises may be used for any of the above lawful businesses and services, except junkyards, and in addition, for public utilities and for any industry or manufacturing if authorized by the Board of Appeals subject to appropriate conditions and safeguards.
4. In District C and D business buildings shall have a minimum set back of 100 ft. from the nearest street or highway sideline.
5. The display of not more than two (2) signs, as herein above authorized, on a property and which shall pertain to the use of such property only. Where two (2) signs as herein authorized are displayed, one (1) shall be permanently affixed to the building to which the use of the property pertains. A freestanding sign may have a base not exceeding three (3) feet in height above road grade and shall not have a dimension exceeding ten (10) feet in any direction and shall read from both sides for a total sign area of forty (40) square feet or if reading from one (1) side only not exceed twenty (20) square feet exclusive of supports therefor. A setback of fifteen (15) feet from the nearest street or highway sideline shall be required. Signs on a commercial building may read

from one (1) side only and shall have no more than forty (40) square feet total area. Illuminated signs shall not have any glare distracting to drivers nor shall there be any exposed neon or gas filled type signs or illumination in colors that will conflict with the ability to readily see traffic lights or cause any hazardous condition therefrom and there shall be no flashing, rotating or oscillating supplementary lighting. Gasoline stations and garages will be allowed the standard permanent oil company signs in addition to the name sign plus the customary lubrication, washing and service signs displayed in the positions to which they apply. And further, where the need for and use of a sign with a larger reading area would not substantially derogate from the amenities of the Town, permission may be granted for the erection and maintenance thereof upon authorization of the Board of Appeals only, and provided further that such sign would not be injurious, noxious or offensive to the neighborhood.

#### SECTION V-A

1. The following uses are allowed in the "Permissive Use" area, provided said use or uses are not injurious, noxious or offensive to the neighborhood, and only if authorized by the Board of Appeals.

- (a) Hotels, Motels or Inns.
- (b) Gift or Craft Shops.
- (c) Bank and Professional Buildings.

2. A minimum 100 ft. set-back from the sidelines of the street or highway in the "Permissive Use" area is required.

3. The display of not more than two (2) signs, as herein above authorized, on a property and which shall pertain to the use of such property only. Where two (2) signs as herein authorized are displayed, one (1) shall be permanently affixed to the building to which the use of the property pertains. A freestanding sign may have a base not exceeding three (3) feet in height above road grade and shall not have a dimension exceeding (10) feet in any direction and shall read from both sides for a total sign area of forty (40) feet, or if reading from one side only shall not exceed twenty (20) square feet ex-

clusive of supports therefor. A setback of fifteen (15) feet from the nearest street or highway sideline shall be required. Signs on a commercial building may read from one (1) side only and shall have no more than forty (40) square feet total area. Illuminated signs shall not have glare distracting to drivers nor shall there be any exposed neon or gas filled type signs or illumination in colors that will conflict with the ability to readily see traffic lights or cause any hazardous condition therefrom and there shall be no flashing rotating or oscillating supplementary lighting. Gasoline stations and garages will be allowed the standard permanent oil company signs in addition to the name sign plus the customary lubrication, washing and service signs displayed in the position to which they apply. And further where the need for and use of a sign with a larger reading area would not substantially derogate from the amenities of the Town, permission may be given for the erection and maintenance thereof upon authorization of the Board of Appeals only, and provided further that such sign would not be injurious, noxious or offensive to the neighborhood.

#### SECTION V-B

The Seashore District is intended to further preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 (75 Stat. 284, 291); to prohibit commercial and industrial uses therein; to preserve and increase the amenities of the town; and to conserve natural conditions, wildlife and open spaces for the education, recreation and general welfare of the public.

##### Permitted Uses.

- 1. Conservation of land, water, wildlife, vegetation, and other natural features and values.
- 2. Facilities deemed by the Secretary of the Interior to be necessary for the administration and public use and enjoyment of the Cape Cod National Seashore or deemed to be necessary by the Town of Eastham.
- 3. Recreation, including but not limited to, hunting, fishing, swimming and boating.

4. Gardening and traditional agricultural uses of cleared land, but excluding such objectionable uses as a piggery or the commercial raising of livestock, fur-bearing animals and poultry, or other uses injurious, noxious or offensive to the neighborhood.

5. Traditional commercial fishing activities, the opening of shellfish, and storage and use of fishing equipment.

6. Uses of existing dwellings as residences and accessory uses customarily incidental to the principal residential use on the same premises, provided such uses are not detrimental to a residential neighborhood and do not alter the essential character of the dwelling as a residence. Residential uses of dwellings may include the renting of rooms and furnishing of board by residents of the premises to overnight guests, if such uses do not alter the essential character of the dwellings as residences.

7. Customary of self home occupations as defined in Section III, paragraph 7, of the Town of Eastham By-Laws, Rules and Regulations, but this shall not include the use of accessory structures as stores or for the display of goods to the passing public.

8. Moving, alteration, enlargement, maintenance, or repairs of existing one-family residential dwellings or the erection of customary structures which will be accessory to the existing principal residential use provided that such improvements to existing dwellings and the erection of accessory structures will afford not less than the setback required by the By-Laws of 1962 from all streets and from the abutters' property lines and further do not alter the essential character of the dwelling as a residence. In appropriate cases, the Board of Appeals may approve lesser set back or side yard requirements for improvements to existing dwellings or for the erection of accessory structures, provided they do not alter the residential character of the premises.

9. Religious and educational use.

10. Municipal use and public utilities.

11. Detached one-family dwellings and accessory structures, provided that no lot may be used for their construction which has a frontage of less than 150 feet, and an area of less than 3 acres, and no dwelling or building may be located in such manner as to provide less than a 50-foot setback from all streets measured at a right angle with the street line and a 25-foot distance from abutters' property lines.

12. The display of not more than one single-faced or one double-faced sign on property of a residential occupant which shall pertain to the occupancy, sale or rental of such property as herein authorized and such sign shall not exceed two square feet in area and shall not be of a type or style employing or using neon, fluorescent, or other direct illumination; provided that the above limitation shall not apply to facilities deemed by the Secretary of the Interior to be necessary on federally owned property for administration and public use and enjoyment of the Cape Cod National Seashore or to facilities of the Town of Eastham on town owned land.

Except as provided above there shall be in the Seashore District:

1. No burning of cover unless determined by the Fire Chief to be necessary for the welfare and safety of the town and such burning shall be in accordance with the requirements of Section 13, Chapter 48 of the General Laws.

2. No filling of land, dumping, or removal of soil, loam, sand, or gravel in excess of 5 cubic yards.

3. No cutting of timber except: (a) by an owner for the purpose of reasonably controlling brush or trees; (b) maintenance cutting in pastures; and (c)

cutting for clearance or maintenance on rights-of-ways including those pertaining to public utilities or public highways.

4. No building or structures.

5. No commercial or industrial venture or activities.

6. No drainage, damming or relocation of any water course except by a publicly authorized agency for the purpose of pest control.

7. No continuous storage of materials or equipment.

Applicants for variances or exceptions shall be promptly notified by the Board of Appeals that the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, property which is made the subject of a variance or exception that, in his opinion, fails to conform or is in any manner opposed to or inconsistent with the purposes of the Cape Cod National Seashore. The Secretary of Interior shall be given notice by the Board of Appeals, of all applications or petitions made for variances or exceptions to the bylaws for the Seashore District and he shall be provided notice by the Building Inspector of all applications for building permits involving the Seashore District within seven (7) days of receipt of the applications or petitions. The Secretary may be consulted at any time by zoning authorities or by the owner of "improved property" regarding the effect of a proposed variance or exception upon the status of the affected property with regard to the suspension of the Secretary's authority to condemn. The Secretary, within 60 days of the receipt of a request for such determination, or as soon thereafter as is reasonably possible, shall advise the owner or zoning authorities whether or not the intended use will subject the property to acquisition by condemnation. Subsequently, to meet the requirements

of the Act of Congress of August 7, 1961, the Secretary shall be given notice by the appropriate board of any variance, or exception, or building permit, granted or denied for the area within the Seashore District.

Approved by the Secretary of the Interior subject to an amendment to Article VIII which will specify a fifty foot (50) setback.

## SECTION VI

1. Lot size: In Districts A and B no dwelling or business building shall be built on a lot with a frontage on an accepted way of less than 135 ft., nor with an area of less than 20,000 sq. ft.; or as specified in Section IV, Par. 7; except that these requirements shall not apply to individual parcels of land now in single ownership by deeds of record in Barnstable County Registry of Deeds which do not meet these requirements; however, buildings erected on such lots shall comply with the "Town Building Code By-Laws" accepted at the Annual Town Meeting Feb. 16, 1948, and Approved by the Attorney General April 30, 1948, or any amendments thereto. Districts C and D uses shall not be extended back from the nearest accepted town roadway boundary line more than 500 ft., except that on the Eastern side of said taking, District D shall extend to the Western sidelines of the Old Colony Railroad land; except upon approval of the Board of Appeals upon an appeal thereto.

## SECTION VII

Non-conforming uses: Any non-conforming building, structure or use, existing upon the effective date of this By-Law may be continued, rebuilt if damaged or destroyed, and upon appeal to the Board of Appeals may be enlarged or changed if no more objectionable to the neighborhood than the said existing use.

## SECTION VIII

### 1. ADMINISTRATION.

(a) **BOARD of APPEALS.** There shall be a Board of Appeals consisting of five members, and two associates, all to be appointed by the Board of Selectmen, with the powers as provided in General Laws, Chapter 40, Section 30, which shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in said Chapter of the General Laws.

(b) **ENFORCEMENT.** This By-Law shall be enforced by or under the direction of the Board of Selectmen, who may delegate ministerial duties hereunder. The Board of Selectmen may resort to Courts for injunctions or other appropriate remedies.

(c) **PENALTIES.** The penalty for violation of any provision hereof shall be a fine of not more than \$20 for each offense.

#### SECTION IX

1. **VALIDITY:** The invalidity of any sentence, provision, or section of this By-Law shall not be construed to invalidate any other part hereof.

2. **AMENDMENTS:** This By-Law may be altered, repealed, or amended in accordance with the law.

Accepted at Annual Town Meeting Feb. 18, 1952. Approved by Attorney General July 1, 1952.

Amendments approved by Attorney General June 10, 1953, March 16, 1954, Feb. 24, 1958, March 9, 1959, June 7, 1960, March 9, 1961, and June 6, 1963.

## SUBDIVISION REGULATIONS

### SECTION I. Authority

Under the authority vested in the Planning Board of the Town of Eastham by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of the land in the Town of Eastham. Such rules and regulations shall be effective on and after the 1st day of April, 1954.

### SECTION II. General

#### A. Definitions

"Subdivision" shall mean the division of a tract of land into two or more lots in such manner as to require provision for one or more ways, not in existence when the subdivision control law became effective in the Town of Eastham, to furnish access for vehicular traffic to one or more of such lots, and shall include re-subdivision.

"Board" shall mean the Planning Board of the Town of Eastham.

#### B. Plan Believed Not to Require Approval

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law, may submit his plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval.

If the Board determines that the plan does not require approval, it shall without a public hearing and within 14 days of submission endorse on the plan the words "Planning Board Approval under Subdivision Control Law not required." Said plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.

If the Board determines that the Plan does require approval under the Subdivision Control Law, it shall within 14 days of submission of said plan so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination.

### C. Subdivisions

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within this Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such subdivision, has been submitted to and approved by the Planning Board as hereinafter provided.

### D. Road Layouts

Before the Board of Selectmen shall act upon any petition for laying out, relocation or alteration of a public way over privately owned property, the petitioners shall have prepared by a competent engineer, designer or surveyor, specifications and a clear and legibly drawn plan in black India ink upon tracing cloth in suitable overall dimensions showing the details of the road petitioned for, location and name of owners, abutters, existing street lines, length and width of the proposed way, drainage disposal, width of turning areas, surface materials and estimated costs, and such other details, services and specifications as the Selectmen may require. The minimum width of said road layout shall be 33 feet of which the minimum clearance and hardened surface shall be 22 feet. The Board of Selectmen will take into consideration the requirements of the community and if in their opinion, common convenience and necessity require the same, they shall take the usual steps as provided in Eminent Domain takings. All costs of the foregoing shall be borne by the petitioners, and if the Town is in the affirmative, approving the doings of the Selectmen thereunto, it shall be a condition of said vote that such owners or petitioners shall post a suitable bond with the Board of Selectmen, assuring the completion of said way as prescribed in the plans and specifications and the Board of Selectmen together with the Surveyor of Highways shall determine that all conditions of this By-law have been complied with before said bond shall be deemed to have been satisfied.

## SECTION III. Procedure for the Submission and Approval of plans

### A. Preliminary Plan

#### 1. General

A Preliminary Plan of a subdivision may be submitted by the subdivider for the discussion and tentative approval by the Board.

The submission of such Preliminary Plan will enable the subdivider, the Board, other municipal agencies and owners of properties abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in every case.

#### 2. Contents

The Preliminary Plan may be drawn on tracing paper with pencil at suitable scale and two prints shall be filed at the office of the Board. Said Preliminary Plan should show sufficient information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the Definitive Plan. Such information will include major site features such as existing stone walls, fences, buildings, large trees, rock ridges, and outcroppings, swamps and water bodies and existing topography as required, together with the information required for the Definitive Plan (Section III-B-2 items "a" to "d" inclusive.) During discussion of the Preliminary Plan the complete information required for the Definitive Plan (Section III-B-2 Contents) will be developed.

#### 3. Tentative Approval.

The Planning Board may give such Preliminary Plan its tentative approval, with or without modification. Such tentative approval does not constitute approval of a subdivision, but does facilitate the procedure in securing final approval of the Definitive Plan.

### B. Definitive Plan

## 1. General

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

(a) An original drawing of the Definitive Plan and two contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.

(b) A properly executed Application Form (to be secured from Town Clerk.)

(c) A deposit of \$5.00 to cover the cost of advertising and notices.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed Application Form.

## 2. Contents.

The Definitive Plan shall be prepared by an engineer or surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one inch equals forty feet or such other scale as the Board may accept, to show details clearly and adequately. Sheet size shall preferably not exceed 24" by 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information.

(a) Subdivision name, boundaries, north point, date and scale.

(b) Name and address of record owner, subdivider and engineer or surveyor.

(c) Names and addresses of all abutters as they appear in the most recent tax list.

(d) Existing and proposed lines of streets, ways, lots, easements, and public or common areas within the subdivision.

(e) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the

ground. All bearings to be referred to Massachusetts prime meridian, when applicable, or to that of adjacent defined streets.

(f) Location of all permanent monuments properly identified as to whether existing or proposed.

(g) Location, names and present widths of streets bounding, or approaching or within reasonable proximity of the subdivision.

(h) Suitable space to record the action of the Board and the signatures of the members of the Board (or officially authorized person).

(i) Existing and proposed topography at a suitable contour interval as required by the Board.

(j) All surveys to be made with accuracy resulting in a minimum error of closure 1 to 10,000.

## 3. Review by Board of Health as to suitability of the Land.

The Planning Board shall within ten days after submission of a plan to it consult with the Board of Health. If the Board of Health is in doubt as to whether any of the land in the subdivision can be used as building sites without injury to the public health, it shall so notify the Planning Board in writing within thirty days. Any approval of the plan by the Planning Board shall then only be given on condition that the lots of land as to which such doubt exists shall not be built upon without the prior consent of the Board of Health, and shall endorse on the plan such conditions, specifying the lots of land to which said condition applies.

## 4. Public Hearing.

Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board at the expense of the applicant at least ten days prior thereto by advertisement in an official publication of, or in a newspaper of general circulation in the Town. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.



#### 5. Certificate of Approval.

The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of the majority of the Board (or by the signature of the person officially authorized by the Board) but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with two (2) prints thereof. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

#### SECTION IV. Design Standards

(a) The Board shall require a minimum lot frontage of 135 ft. with a minimum lot area of 20,000 sq. ft., in accordance with Eastham Zoning By-Law 1952.

(b) The minimum width of street right-of-ways shall be 40 ft.

(c) Property lines at street intersection shall be rounded to provide for a curb radius of not less than 20 feet.

(d) Dead end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 90 ft.

(e) All streets in the subdivision shall be continuous wherever practicable.

(f) Provisions satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property not yet subdivided.

(g) Grades of all streets shall be the reasonable minimum but shall not be more than 10 percent except for short distances.

(h) A sufficient number of permanent monuments of reinforced concrete or stone shall be required to readily reproduce the subdivision on the ground. These monuments shall be at least 5" by 5" in cross-section and 32" in length.

#### SECTION V. Administration

##### A. Variation

Strict compliance with the requirements of these rules and regulations may be waived when in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

##### B. Reference

For matters not covered by these rules and regulations, reference is made to Section 81-K to 18-GG, inclusive, of Chapter 41 of the General Laws.

## DISPOSAL of SEWAGE

### SECTION I

Every place of human habitation shall have available a sanitary method for the disposal of all human excreta which shall meet with the approval of this Board of Health, its agents or inspectors.

### SECTION II

Wherever a water carriage system is available, final disposal of these waters shall be made by means of one or other of the following methods:

(a) Connection with a public sewerage system where such system is available and connection with the same is required by a regulation of this Board. (General Laws, Chapter 83, Section 11).

(b) A cesspool constructed in such a manner as hereinafter provided.

(c) A septic tank constructed in such a manner as hereinafter provided.

(d) Such other method as shall be approved by this Board.

### SECTION III

All cesspools hereafter constructed shall be of approved material and unless otherwise specified by the Board of Health shall be located not less than twenty (20) feet from any dwelling, not less than five (5) feet from the line of any street, court or passageway, not less than five (5) feet from the line of adjoining lot, all measurements being taken from the nearest outer circumference. Cesspools shall not be less than six (6) feet in depth measuring from the lower rim of the inlet pipe, not less than six feet in diameter (inside

measurements at the point of drawing in) and shall be provided with an iron or tight cover and rim laid in cement.

### SECTION IV

All septic tanks hereafter installed shall be of approved construction, and shall have a minimum capacity of 500 gallons. The effluent of such septic tanks shall be disposed of by means of: (a) A cesspool properly constructed; or (b) A subsoil drainage system laid out in a manner which shall meet the approval of this board.

### SECTION V

In the absence of a water carriage system disposal of human excreta shall be by means of a sanitary privy. All privies shall be of approved material and shall be so constructed as to prevent the access of flies to excreta or the deposit of the same on the surface of the ground. Unless otherwise specified by the Board of Health such privy shall be located not less than twenty (20) feet from the nearest dwelling, not less than twenty (20) feet from line of adjoining lot and not less than twenty (20) feet from any street, court or passageway, all measurements being taken from nearest outer point of the privy building. No permanent privy shall hereafter be constructed or maintained on premises which are provided with a water supply.

### SECTION VI

Unless otherwise specified by the Board of Health, all cesspools, septic tank disposal fields, privies or other sewage disposal methods hereafter constructed and all wells and springs hereafter installed shall be so located that a distance of not less than fifty (50) feet shall intervene between any well or spring and any cesspool, septic tank disposal field or privy. The distance shall be

measured from the well or spring to the nearest outer point of such cesspool, disposal field or privy. All pipe lines used for the purpose of conveying sewage or house draining shall, where within fifty (50) feet of any well or spring, be constructed of cast iron pipe with leaded joints or in such other manner as to be permanently water tight. The use of clay or terra cotta pipes with cement joints will not be approved.

#### SECTION VII

In the absence of other water carriage disposal, the drainage from kitchen sinks, laundry tubs, etc, shall be disposed of in a cesspool or dry well so constructed as to meet with the approval of this Board of Health.

#### SECTION VIII

Whenever a cesspool, septic tank, privy or drain becomes offensive or obstructed, the owner, agent and (or) occupant of the premises shall cause same to be cleaned or otherwise corrected.

#### SECTION IX

No cesspool, septic tank, privy or other means of sewage disposal shall hereafter be constructed or installed in this town until a permit has been obtained from the Board of Health.

#### SECTION X

Temporary privies for the convenience of contractors and their employees may be erected or installed without a permit but only under the following conditions: The vault must be at least two (2) feet in depth and must be so located as to cause no annoyance to persons residing in the vicinity. The owner, contractor or agent shall cause the contents thereof to be treated in a sanitary manner and immediately upon the completion of the contract the contractor shall remove the privy fill in the vault and leave the premises in a condition satisfactory to the Board of Health.

#### SECTION XI

All holders of permits granted by this Board of Health, under Chapter III, Section 31-A of the General Laws as amended for the removal and transport of contents of cesspools, septic tanks or privy vaults shall provide themselves with a water tight tank truck or vehicle to be used for this purpose. Dumping or final disposal of the contents of tank trucks or other vehicles shall be at such a place and in such a manner as provided by this Board of Health. This section shall not be construed as preventing the dumping of such material on the land but when such a method is practiced all material shall within twenty-four (24) hours of the time of dumping, be covered with earth or soil to a depth of at least eight (8) inches.

#### SECTION XII

##### Repeal and Date of Effect

All regulations and parts of regulations in conflict with this regulation are hereby repealed and this regulation shall be in full force and effect immediately upon its adoption and publication as provided by law (Section 31 of Chapter III, General Laws).

#### SECTION XIII

##### Unconstitutionality Clause

Should any section, paragraph, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of the said regulation shall not be affected thereby.

Adopted April 18, 1955, and amended June 15, 1963.

Maurice A. Moore  
Maurice W. Wiley  
Luther P. Smith

Rules and Regulations  
of the  
Eastham Zoning  
Board of Appeals

1. Meetings and hearings of the Board will be held on Wednesday evenings at the call of the Chairman.
2. Associate members of the Board will, whenever practical, meet with the Board at all hearings and meetings. The associate members in attendance at any hearing shall sit with the regular members, but the vote of only five (5) members assigned by the Chairman to hear a particular case will affect that case, although the other votes will be recorded.
3. In the event of the inability of the Chairman to meet with the Board at any particular meeting or hearing, he shall appoint an Acting Chairman for that meeting, who shall exercise all the powers of the Chairman.
4. A Stenographer, who shall also be the Clerk of the Board, shall be in attendance at all hearings held by the Board, and at such special meetings as the Chairman will deem necessary.
5. A four-fifths favorable vote of the assigned members to hear a particular case shall be required for an affirmative decision by the Board, as prescribed by Chapter 40A of the General Laws (ter.ed) as amended.
6. All hearings of the Board shall be open to the public.
7. The Board shall hold its hearings on a Wednesday evening within thirty (30) days of the receipt by the Chairman of the Board, of an approved written petition for any matter falling within the Board's jurisdiction.

8. Public notices of all hearings shall be given twenty-one (21) days at least prior to the date set therefor in an official newspaper or publication of general circulation within the County of Barnstable by direction of the Chairman, who shall also send notice by certified mail, postage prepaid, fourteen (14) days at least prior to said hearing to the petitioner, and property owners adjacent to the petitioner's land so deemed by the Chairman to be affected thereby, as they appear on the most recent real estate tax list. Notice shall also be given to the Board of Selectmen, Town Clerk, Planning Board and Building Inspector.

9. The Petitioner shall, at the discretion of the Board, submit satisfactory indicia of ownership or occupancy of the land on which a decision of the Board would apply.

10. The Board shall cause to be made a detailed record of its proceedings, and official actions, a copy of which shall be filed with the Town Clerk and become a public record, and notice of decision, signed by the Clerk shall be mailed forthwith to parties in interest.

11. The Board shall take a view of sites and buildings involved in cases which are to come before it whenever and wherever it is deemed necessary.

12. The Board shall require the submission of plans, to properly engineered scale, from the office of established architects and land surveyors, civil engineers, or their equivalent. These plans shall be 8 and one-half inches by 11", 9 and one-half inches by 14", 16" x 21", 18" x 24", 24" x 36", and if larger, in multiples thereof. The Board shall require an elevation drawing of proposed construction or alterations, and when presented to the Board, the drawing shall also include the specifications to be used in said construction. These requirements may be waived in the event of alterations and additions to existing residential buildings.

13. The appellant in any appeal case shall submit an approved application form in quadruplicate, each sheet to be filled out completely and the same signed and sent or presented in person to the Chairman of the Board. These forms are on file at the Town Offices.

14. Every affirmative decision of the Board shall contain the following:

"This variance and/or permissive use is granted to the petitioner only and does not run with the property and may be withdrawn if not conducted in proper form as determined by the Board of Appeals, and any construction allowed does not commence within one (1) year. Substantial completion of the construction allowed must be reached within a reasonable time as determined by the Board after commencement of said construction."

15. The Board shall make such other rules and regulations, from time to time, as it shall deem necessary and proper for the carrying out of its functions under the Zoning By-Laws; said rules and regulations to be on file with the Town Clerk.

## RULES and REGULATIONS Pertaining to the Beaches TOWN OF EASTHAM

1. Entertainments on Beaches are prohibited except by written permission of the Board of Selectmen.
2. The Consumption of any alcoholic beverages in any Beach area is prohibited.
3. Littering the Beach areas with rubbish or refuse and/or removal of sand, bushes and other growth is prohibited.
4. Malicious damage, stealing or destruction will be punished to the full extent of the law.
5. The creation or maintaining of a nuisance in any Beach area is prohibited.
6. The use of soaps for lathering or washing in fresh water swimming areas is prohibited.
7. The washing of any vehicle in any Beach area is prohibited.
8. Ball playing on the Beaches or in the water is prohibited.
9. No person shall use rafts, rubber tubes, etc., as swimming accessories in the water at Nauset Beach.
10. Dogs are not allowed in Beach areas. Horses are not allowed in Beach areas.
11. No Children under twelve years of age may attend Ocean Beaches unless accompanied by a responsible person 14 years of age or over.
12. No person shall operate any motor vehicle in any Beach area at a rate of speed exceeding 15 miles per hour.

13. The rules pertaining to Highways shall apply to all Beach areas.
14. Violators of these Rules may be ejected from the Beach areas and/or be subject to arrest and punished by law by a fine of not more than twenty dollars (\$20.00), or both.

BOARD OF SELECTMEN

Maurice W. Wiley, Chairman  
Luther P. Smith  
Maurice A. Moore